

NOTICE OF CONTINUANCE OF
PUBLIC COMMENT PERIOD AND PUBLIC HEARING
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

In-Home Supportive Services Paramedical Regulations

The California Department of Social Services (hereafter the Department) hereby gives notice that the Department will continue to accept public comments on the proposed regulatory action(s) described below beyond the initial published closing date of December 27, 2018. This continuance is being issued in the interest of public participation and a second public hearing will be held on January 18, 2019. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at the following address:

Office Building # 8
744 P St. Room 103
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only if attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing immediately following the receipt of testimonies. The above-referenced facility is accessible to persons with disabilities. If you need a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. **All comments must be received by 5:00 p.m. on January 18, 2019.**

Following the public hearing, the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. Except for nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at [CDSS Public Hearings for Proposed Regulations](http://www.cdss.ca.gov/inforesources/Letters-Public-Hearings-for-Proposed-Regulations) (<http://www.cdss.ca.gov/inforesources/Letters-Public-Hearings-for-Proposed-Regulations>) (<http://www.cdss.ca.gov/inforesources/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information>). Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will also be available at the following address:

CONTACT: California Department of Social Services
Office of Regulations Development
744 P. Street, MS 8-4-192
Sacramento, CA 95814
Tel: (916) 657-2856, Fax: (916) 654-3286
Email: ord@dss.ca.gov

CHAPTERS

Chapter 30-700

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The regulations in this package pertain to an amended Paramedical Regulations that cover a wide selection of areas including but not limited to: establish a clear definition of a licensed health care professional for the purpose of ordering paramedical services (LHCP-PM); and assign an indicator of 6 for identifying ones level of functioning, which is used in the assessment process; set forth protocols and specifications to ensure the counties have a clear understanding of definitions and parameters of paramedical services governed by the Paramedical Regulations for the In-Home Supportive Services (IHSS) program.

Assembly Bill 1773, Chapter 939, Statutes of 1992, Section 2, which adopted Welfare and Institutions Code (WIC) section 12300.1, specifies that paramedical services are supportive services that are ordered by a licensed health care professional who is lawfully authorized to do so which persons could provide for themselves but for their functional limitations. Paramedical services include the administration of medications, puncturing the skin, or inserting a medical device into a body orifice, activities requiring sterile procedures, or other activities requiring judgment based on training given by a licensed health care professional. These necessary services shall be rendered by a provider under the direction of a licensed health care professional, subject to the informed consent of the recipient obtained as a part of the order for service. In order for paramedical services to be authorized in the IHSS program, the IHSS recipient must have their licensed health care professional complete the Request for Order and Consent – Paramedical Services form (SOC 321), which requires that the licensed health care professional identifies the paramedical services needs and indicates the time required to perform the paramedical service, the frequency for administering the service, and how long the IHSS recipient needs for the paramedical service to be provided. Additionally, the licensed health care professional must train the hired IHSS provider to properly administer these services for the IHSS recipient. The IHSS recipient must also sign off on the SOC 321 with their consent to allow the specified paramedical services to be administered to them by the IHSS provider of their choice, which has undergone training to ensure proper administration. If appropriate, training may also be verified by reviewing the In-Home Supportive Services (IHSS) Provider Self-Certification of Completion of Training in the Provision of Paramedical Services (SOC 321A), which identifies the individual the LHCP-PM has trained in the specific paramedical tasks being ordered for the applicant/recipient.

These proposed regulations revise language in the Manual of Policies and Procedures (MPP), Division 30, sections 30-701 (Definitions), 30-756 (Need), and 30-757 (Program

Service Categories and Time Guidelines). The revised regulations define a licensed health care professional for the purpose of ordering paramedical services (LHCP-PM) for signing the SOC 321, specifies what services are deemed paramedical and which are not by providing examples in a handbook section, provides policies and procedures for the timeframes relating to the paramedical service authorizations by requiring that paramedical services be authorized by a LHCP-PM within the timeframes specified in the Statewide Paramedical Service Time Authorization Guidelines, which is introduced in this package. The paramedical regulations also specify the authority the county has to authorize time other than what is indicated on the SOC 321 by the LHCP-PM. Finally, the proposed revised regulations also specify the conditions for which a new SOC 321 must be completed and services may be made retroactive. The conditions under which payment may be made retroactively for paramedical services rendered to an applicant/recipient, before the county received the completed SOC 321, is specified to benefit IHSS program participants since these services are necessary to maintain the individual's health and to remain safely in his/her own home.

Forms to be Revised and incorporated by reference

This proposed rulemaking action incorporates by reference the Request for Order and Consent – Paramedical Services, SOC 321 (XX/20XX). This proposed rulemaking action also incorporates by reference Provider Self-Certification of Completion of Training in the Provision of Paramedical Services, SOC 321A (XX/20XX). The revision dates for both forms will be the effective date of the proposed regulations.

Anticipated Benefits of the Proposed Regulation

The benefits of the regulatory action to the health and welfare of California residents, workers safety, and the state's environment are as follows: Program stakeholders, including county agencies that administer the IHSS program, IHSS applicants/recipients, advocates for IHSS applicants/recipients, and others, will have a clear understanding of the most up-to-date rules relating to the authorization and provision of paramedical services within the IHSS program. Regulations relating to paramedical services were first promulgated in 1979, and they have not been updated since 1993. There are no additional benefits for worker safety or the state's environment, as the regulations only affect county agencies that administer the IHSS program, IHSS applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services. Because these regulations apply only to individuals applying for or receiving IHSS, they do not impose any additional costs or fees on individuals, nor will they result in higher product prices or in diminished product choices or quality of good and services produced in the private sector. There is no specific benefit to the health or welfare of the state's workers or its environment.

Determination of Inconsistency/Incompatible with Existing Law

The Department has made an initial determination that these proposed regulations are neither inconsistent nor incompatible with existing State and federal statutes, court decisions, or other provisions of law. These are the only regulations that concern IHSS Paramedical Regulation for IHSS applicants.

COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance with Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: None
4. Federal Funding to State Agencies: None

LOCAL MANDATE STATEMENT

These regulations constitute a mandate on local agencies, but not on local school districts. There are state mandated local costs that require reimbursement, which is provided in the Budget Act to cover any costs that local agencies may incur.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This determination was made based on the fact that the regulations only apply to county agencies that administer the IHSS program, IHSS applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

The Department has made an initial determination that there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to IHSS applicants, state, and county agencies. Further, the regulations contained in this package concern IHSS applicants who are not included in the definition of small businesses pursuant to Section 11342 of the Government Code. As such, they do not impact small businesses either in terms of occupations, reporting requirements, competitiveness, fees, charges, or assessments. These regulations carry no compliance requirements for small businesses. Hence, small businesses will incur no information or transaction costs associated with compliance with these regulations.

STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The analysis is intended to be a tool or baseline to establish that these regulatory measures are the most cost-effective to affected California enterprises and equally effective in implementing the statutory policy or other provision of law. The Department has made the initial determination detailed in the Initial Statement of Reasons that: the adoption of the

proposed amendments will neither create nor eliminate jobs in the State of California, nor result in the elimination of existing businesses, or create or expand businesses in the State of California.

The benefits of the regulatory action to the health and welfare of California residents, worker safety, and the state's environment are as follows: Program stakeholders, including county agencies that administer the IHSS program, IHSS applicants/recipients, advocates for IHSS applicants/recipients, and others, will have a clear understanding of the most up-to-date rules relating to the authorization and provision of paramedical services within the IHSS program. Regulations relating to paramedical services were first promulgated in 1979, and they have not been updated since 1993. There are no additional benefits for worker safety or the state's environment, as the regulations only affect county agencies that administer the IHSS program, IHSS applicants/recipients who have a need for paramedical services, and LHCP-PMs who may be asked by clients who are IHSS applicants/recipients to provide an order for paramedical services. Because these regulations apply only to individuals applying for or receiving IHSS, they do not impose any additional costs or fees on individuals, nor will they result in higher product prices or in diminished product choices or quality of good and services produced in the private sector. There is no specific benefit to the health or welfare of the state's workers or its environment.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The Department invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the public comment period.

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

To date, workgroups have been held with counties, stakeholders, and advocacy groups to discuss the program and no other alternatives were identified or brought to the attention of the Department that would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AUTHORITY AND REFERENCE CITATIONS

Authority: 10553, 10554, 12300, 12300.1, 12301.1, 12301.2 and 12301.21, Welfare and Institutions Code; and Chapter 939, Statutes of 1992. Reference: Peremptory Writ of Mandate, Disabled Rights Union v. Woods, Superior Court, Los Angeles County, Case #C 380047; Miller v. Woods/Community Services for the Disabled v. Woods, Superior Court,

San Diego County, Case Numbers 468192 and 472068; and Sections 12300, 12300(c)(7), 12300(f), 12300(g), 12300.1, and 12301.2, Welfare and Institutions Code.

DEPARTMENT REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF
THE PROPOSED REGULATION

Contact Person:	Kenneth Jennings	(916) 657-2586
Backup:	Sylvester Okeke	(916) 657-2586